

*obsolete
 valid Jan 1, 1983
 to March 31, 1988*

**TITLE 47
 LEGISLATIVE RULES
 DEPARTMENT OF NATURAL RESOURCES**

**SERIES 50
 REGULATIONS ON SERVICES OF LICENSED OUTFITTERS AND GUIDES**

§47-50-1. General.

1.1. Scope. -- Legislative rules and regulations regulating the services of licensed outfitters and guides.

1.2. Authority. -- WV Code §20-1-7; §20-2-23.

1.3. Filing Date. -- December 30, 1982.

1.4. Effective Date. -- January 1, 1983.

§47-50-2. Definitions.

2.1. Outfitter. - The word "Outfitter" shall mean and include any person who, operating from any temporary or permanent camp, private or public lodge, or private or incorporated home situated within this state, provides for monetary purposes or profit or gain, saddle or pack animals or other animals, vehicles, boats, conveyances or equipment, or guide services for any person or persons hunting game animals, game birds, fishing or taking expeditions, both land and water, in this state. The term "Outfitter" shall not include, however, any person who occasionally for accommodation or favor rather than profit or gain, rents equipment to hunters, fishermen or others as a service incidental to his principal occupation or business without advertising outfitter or guide services or holding out to the public his offering of such services.

2.2. Guide. - The term "Guide" shall include or embrace outfitter services.

2.3. Expedition. - For the purposes of these regulations "Expedition" shall be defined as commercial whitewater or wildwater expedition.

§47-50-3. National Forest Lands.

3.1. Outfitter or guide license shall not include National Forest lands within this state unless permission is obtained from the supervisor of such Na-

tional Forest lands. Such permission must be signed and approved by the National Forest Supervisor upon application form as furnished by the Department of Natural Resources.

§47-50-4. General Regulations.

4.1. Bear Hunt. In accordance with the provisions as contained in Article Two, Section Twenty-two a (20-2-22a) outfitter or guide license does not permit the holder thereof to organize for commercial purposes or to professionally outfit a bear hunt or to give or receive any consideration whatsoever or any donation in money, goods or services in connection with a bear hunt.

4.2. Application. Applicants for outfitters and guides licenses shall provide the director with the information as specified on the application for outfitter and guide license and any other additional information he may deem necessary for consideration of such application. Upon approval of an outfitter or guide license by director, this information shall become part of that applicant's official file. Any change must be reported to the director by the outfitter or guide within sixty (60) days of such change.

4.3. Surety Bond. Each licensed outfitter or guide must execute a surety bond in the penal sum of one thousand (\$1,000) dollars payable to the State of West Virginia and conditionally upon the faithful and reliable discharge of his services under and pursuant to such license before any outfitting or guide services are offered or rendered.

4.4. Validity. Outfitter or Guide licenses shall be non-transferable and shall be valid for the calendar year therein designated.

4.5. Insurance. Each licensed outfitter or guide shall provide Public Liability Insurance. The minimum acceptable coverage shall be: Bodily Injury Liability Three Hundred Thousand dollars (\$300,000)

per occurrence; Property Damage Liability Twenty-five Thousand dollars (\$25,000) each occurrence and Twenty-five Thousand dollars (\$25,000) aggregate. Immediately upon the issuance of an outfitters or guides license and before any outfitters or guides services are offered or rendered thereunder, the licensee shall provide the director a copy of the required insurance policy or appropriate certification by the insurer that the required insurance coverage is in effect.

4.6. Records. All licensed outfitters or guides shall keep a current record or file containing names, addresses, age and residency of all persons who have utilized their services. This record shall be kept for a period of two (2) years and shall be made available to the director upon request. Such information will be kept confidential.

4.7. Fenced or Posted Lands. Outfitter or Guide licenses confer no authority to trespass and written permission must be obtained from the landowner of any fenced or posted lands before entering same for the purpose of hunting, fishing or taking a wildwater expedition.

4.8. Compliance. All operations shall comply with all applicable state and federal laws and rules and regulations.

4.9. Accident Reports. No later than the third day following the day on which occurs any accident resulting in property damage other than the loss of or damage to property taken by a customer or guest and equipment or property of the outfitter guide the outfitter or guide shall file a report with the director and give notice of such damage to the owner of the property. Such a property damage report shall state the name of the owner of the property, an estimate of the amount of the loss, the time and location of the event causing the damage, and a description of the accident. No later than the first day following any accident resulting in personal injury requiring the attention of a doctor, each outfitter or guide shall file a report with the director. Such a personal injury report shall include the name, address and age of the injured person, and time and place of the injury, a description of the injury and of the accident. Such reports shall be filed with the Director, West Virginia Department of Natural Resources, 1800 E. Washington Street, Charleston, West Virginia 25305, and will be deemed filed

when deposited in the United States mail with adequate postage and properly addressed. If the final day on which any report required by this paragraph must be filed falls upon a Saturday, Sunday or legal holiday, such report may be filed on the next regular business day following such Saturday, Sunday or legal holiday.

4.10. Inspection. Each outfitter shall allow inspection of his equipment or records at any reasonable time by any authorized representative of the Department of Natural Resources.

4.11. Safety. All equipment provided shall be in good condition and maintained in a safe, operable condition. All equipment and materials provided shall be safe and free of infection and conditions inimical to the health and well-being of the persons utilizing the outfitter or guide services.

4.12. Revocation. The director is hereby authorized to revoke and cancel any such license for failure of the licensee to give the bond herein required, for licensee's violation or disregard of any or the provisions of WV Code §20, as amended, upon licensee's conviction of crime, or for any other reason or cause justifying refusal of the license to the licensee upon a new application therefor.

4.13. License in Possession. Each outfitter or guide shall have on his person a copy of his valid outfitter guide license when conducting outfitter or guide services. If the outfitter or guide is other than an individual (i.e. corporation, partnership, or other legal entity) then such copy will be on the person or a representative of that entity who is present and designated in-charge during the performance of the outfitter or guide services.

§47-50-5. Hunting and Fishing Trips.

This section shall apply only to outfitters or guides for hunting or fishing purposes.

5.1. Hunting and Fishing Regulations. All trips must be in compliance with current hunting and fishing regulations. Licensee must have the appropriate valid West Virginia hunting and/or fishing license and stamps.

5.2. First Aid. Each outfitter or guide or represen-

tative of same who is conducting the service shall have a current standard first aid training certificate issued by the American Red Cross or equivalent. Should the licensed outfitter or guide be other than an individual (i.e. corporation, partnership or other legal entity) or be other than the individual conducting the service, then the individual or individuals acting in a capacity of conducting the service shall obtain such certificate.

§47-50-6. Commercial Whitewater Outfitter.

6.1. Applicability. This section shall apply only to outfitters who only rent or provide watercraft and equipment for use in whitewater expeditions for monetary profit or gain, and as a service incidental to his principal occupation or business. Any person advertising such outfitting service or holding out to the public his offering of such service must be licensed as provided in this section. Outfitters in this classification shall be exempt from Sub-sections 4.5 and 4.9, Section 4; and Sections 5 and 7 of these regulations, except as otherwise provided. No guide services shall be offered or provided under a license issued pursuant to this section.

6.2. Watercraft. Rafts provided for use shall be in compliance with Section 7.3 of these regulations. Open or decked canoes and kayaks shall contain adequate flotation if not of the inflatable type.

6.3. Personal Flotation Devices approved by the United States Coast Guard for commercial whitewater use shall be provided for each passenger to be transported in watercraft either by outfitter or renter.

§47-50-7. Commercial Whitewater Expeditions-Equipment

7.1. Specifications. All rafts shall be of vulcanized neoprene construction or equivalent.

7.2. Safety. Vessels shall not in any case be loaded with more than their standard rated capacity.

7.3. Size. The minimum raft size that shall be used on any river, except those listed below, is an 8-foot, three (3) compartmentized raft.

7.4. Number of Guides. Each trip shall have one (1) trip guide per ten (10) customers. For more than four (4) passengers over an even multiple of ten (10), the higher multiple of ten (10) will be used to deter-

mine the minimum number of trip guides. In no case will there be less than two (2) guides per expedition. The trip leader may count as a trip guide for the purpose of meeting this requirement. One (1) trip guide must ride in the first vessel of the expedition and one must ride in the last vessel of the expedition. Remaining trip guides shall be reasonably dispersed among the passengers.

7.5. The minimum raft size and trip guide numbers for the following rivers or sections thereof shall be:

(a) Cheat River - between Rowlesburg and Cheat Lake - at approximate flows of 2,200 cfs (Albright bridge gauge 2.5) and above, 15 foot, six (6) compartmentized raft with one (1) trip guide in each raft. Rafts 20 feet or longer shall have two (2) trip guides in each raft. Below an approximate flow level of 2,200 cfs (Albright bridge gauge 2.5) the minimum size permitted is a 12 foot, three (3) compartmentized raft. Numbers of trip guides and their dispersion shall be in compliance with Section 7.3 of these regulations. Flows of the Cheat River can increase rapidly. It will be the responsibility of the outfitter or guide to be aware of the trend in Albright gauge levels and plan their trips accordingly. Flow data will be monitored by the DNR at the USGS Rowlesburg gauge, which records flows hourly, to insure that trip guide requirements are being adhered to.

(b) New River - between Thurmond and Fayette Station - at approximate flows of 2,000 cfs (USGS Hinton gauge 1.80) and above, 15-foot, six (6) compartmentized raft with one (1) trip guide in each raft. Rafts 20 feet or longer shall have two (2) trip guides in each raft. Below an approximate flow of 2,000 cfs (USGS Hinton gauge 1.80) the minimum size permitted is a 13-foot, three (3) compartmentized raft with one (1) trip guide in each raft.

(c) Gauley River - between Summersville Dam and Swiss - at approximate flows of 1,200 cfs (USGS Belva gauge 2.73) and above, 15 foot, six (6) compartmentized raft with one (1) trip guide in each raft. Rafts 20 feet or longer shall have two (2) trip guides in each raft. Below an approximate flow of 1,200 cfs (USGS Belva gauge 2.73) the minimum size raft permitted is a 13 foot, three (3) compartmentized raft with one (1) trip guide in each raft.

7.6. Supplies, equipment and passengers in any vessel shall be limited so as not to provide a safety

hazard. All supplies and equipment shall be arranged so as to avoid hazard to passengers.

7.7. Minimum equipment. Each float trip shall have a minimum of the following equipment:

(a) One (1) raft air pump and adequate patch and repair kit.

(b) One (1) interchangeable valve.

(c) One (1) first aid kit per trip guide. Rafts with two (2) trip guides require one (1) first aid kit.

(d) Two (2) anti-venom snake bite kits unless the outfitter or guide has obtained within the then current calendar year written confirmation from the nearest hospital that it maintains a supply of anti-venom and a copy of such confirmation has been filed with the director as provided in Section 4.6. It is not intended for these kits to be used by unqualified individuals but to have such kits available for use by qualified individuals.

(e) Topographic maps of the area of the expedition.

(f) One (1) 50 foot floating type throwline per trip guide. Rafts with two (2) trip guides require one (1) 50 foot throwline.

(g) One (1) emergency signal light.

(h) Safe drinking water of sufficient quantity for entire party for a 24 hour period or a means of providing some.

**§47-50-8. Commercial Whitewater Expedition:
Trip Leaders and Trip Guides.**

8.1. Emergency Procedures. It shall be the responsibility of the outfitter to instruct all trip leaders and trip guides in all applicable safety and emergency procedures.

8.2. Responsible Leader. Each float trip must have one (1) trip leader whose capabilities qualify him as the responsible leader in charge. In addition to all the qualifications for trip guide, the trip leader:

(a) Must be at least twenty (20) years old, unless approved in writing by the director.

(b) Must have made a minimum of twelve (12) trips on a river or rivers of comparable volume and difficulty of which 50 percent was experienced on the river to be guided.

(c) Must have good working knowledge of the area's topography, geography, and history.

(d) Must be knowledgeable and capable of giving a suitable orientation talk to passengers on such subjects as personal flotation devices and safety.

8.3. Qualifications of Trip Guide. To be qualified, a trip guide:

(a) Must be at least eighteen (18) years old, unless approved in writing by the director.

(b) Must have made at least six (6) trips on a river or rivers of comparable volume and difficulty of which 50 percent was experienced on the river to be guided.

(c) Must be able to proficiently operate the vessel to be used for passenger transportation safely and assume responsibility for the passengers.

(d) Effective thirty (30) days after the adoption of these regulations, must have a valid Red Cross standard first aid card, or equivalent.

(e) Must have a thorough knowledge of the area of the expedition.

(f) Must be able to swim and be familiar with floating in whitewater conditions in a personal flotation device.

8.4. Variations from the qualifications of trip leader or trip guide as set forth may be approved by the director. Requests for variation must be in writing to the director and such requests must substantiate that the variation does not reduce the intent of the qualifications.

§47-50-9. General Operations (Whitewater Expeditions)

9.1. The use of motors on commercial whitewater or wildwater float trips is prohibited except that a motorized boat may be used to tow rafts from termination of all whitewater to a takeout point. No vessel with a motor attached to or stored in that is capable of

propelling that vessel, or any other vessel that is part of the expedition, through the water shall accompany or be part of any expedition until all the whitewater protions of that expedition have been passed. And, in no case shall a motor capable of propelling be placed on, stored in or used to propel a vessel that is part of an expedition.

9.2. Flotation Device. Each passenger, trip guide and trip leader shall wear a securely fastened vest-type personal flotation device approved by the United States Coast Guard for use in the watercraft while on a whitewater expedition. Each personal flotation device shall be maintained in a good and serviceable condition.

9.3. The use of firearms is not permitted.

9.4. Property, Natural Plants. It shall be unlawful to injure, remove or destroy property or natural plants without written permission of the owner.

9.5. Swimming allowed only with the approval of a trip guide or the trip leader.

9.6. Litter. It shall be unlawful to discard any trash, litter, trip equipment or any other refuse along river banks, into water, or along trails.

9.7. Restrictions. All expeditions shall be conducted with consideration of river or weather conditions that may adversely affect the safety of the passengers. The director reserves the right to prohibit, further restrict or modify any expedition, minimum raft size, number of trip guides, or any other safety measures as set forth in these rules when he so deems such action necessary because of weather or river conditions that may adversely affect the safety of the passengers.

§47-50-10. Whitewater Recreation Zones

10.1. Whitewater recreation zones for commercial whitewater expeditions are designated as follows:

(a) Cheat River from its headwaters to Lake Lynn (Cheat Lake).

(b) Gauley River from the United States Corps of Engineers Summersville Dam to its confluence with the New River.

(c) New River from its confluence with the Gauley River to its confluence with the Greenbrier

River.

(d) Shenandoah River from its confluence with the Potomac River to the Virginia boundary line.

10.2. Whitewater recreation zones to be studies pursuant to 20-2-23a, Subsection (b) of the Code of West Virginia, are designated as follows:

(a) Cheat River from the village of Rowlesburg to Lake Lynn (Cheat Lake).

(b) Gauley River from the United States Corps of Engineers Dam to the village of Belva.

(c) New River from its confluence with the Gauley River to its confluence with the Greenbrier River.

(d) Shenandoah River from its confluence with the Potomac to the Virginia boundary line.

10.3. Investigations on all the above named study zones shall be initiated the first day of July, one thousand nine hundred eighty-one (1981). All studies and investigations shall be completed shall be completed no later than the first day of July, one thousand nine hundred eighty-four (1984).

§47-50-11. Interim Regulations - Whitewater Recreation Zones.

11.1. Use. A commercial whitewater outfitter shall not exceed 1981 peak weekend or holiday use of any designated whitewater study zone prior to the promulgation of rules and regulations for each study zone by the Commercial Whitewater Advisory Board. Peak use in 1981 is defined as the highest number of commercial watercraft per day in use on each study zone by the outfitter for commercial whitewatering on any Saturday, Sunday or holiday between January 1, 1981, and December 31, 1981.

11.2. Outfitter's Exemption. A commercial whitewater outfitter may be subject to exemption to the foregoing regulation if the director finds that a substantial financial commitment has been made and a financial hardship will result from operating at the 1981 level. If the director grants an exemption, he will set a peak use figure to apply on each whitewater zone until rules and regulation are promulgated by the Whitewater Advisory Board.

11.3. Stream Exemption. The New River from its confluence with the Greenbrier River downstream to the Highway - RR bridge at Thurmond may be ex-

empt from the provisions of 9.1. if the director finds such use will not interfere with the conduct of any whitewater studies or investigations.